

08-26-4

DAC
IFW
Patents

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Eric Klinker, et al.

Serial No.: 10/735,589

Filed: December 12, 2003

For: Topology Aware Route Control

Examiner: Unknown

Art Unit: 2662

PETITION UNDER 37 C.F.R. § 1.47(a)
FILING WHEN INVENTOR IS UNAVAILABLEMail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The undersigned requests consideration of this Petition on the basis that despite diligent efforts, executed Declarations and Powers of Attorney by all the inventors of the present invention are unavailable.

Of the four inventors named in the application, executed Declarations and Powers of Attorney are submitted herewith on behalf of Eric Klinker, Brian Douglas Grady and Edward Crabbe. Although appropriate documentation was provided to Jeremy Johnson by customary means and several follow-up communications requested the return of an executed Declaration and Power of Attorney, none was returned. The attached Statement of Facts establishes that Mr. Johnson's conduct constitutes a refusal to sign the Declaration.

Pursuant to the requirements of 37 C.F.R. § 1.47(a), the last known address of the non-signing inventor is provided below:

Jeremy T. Johnson
4775 Seminole Drive #207
San Diego, California 92115

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail Label No. **EL602853419US** in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on **August 25, 2004**.

08/26/2004 HVUONG1 00000118 10735589

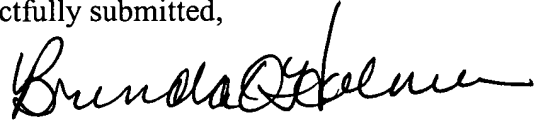
01 FC:1460

130.00 OP

Matt Collins

In accordance with the fee requirement of 37 C.F.R. §1.17(h), a check in the amount of \$130.00 is provided herewith. Should any further fees be required for this consideration, please charge them to the Deposit Account 11-0855.

Respectfully submitted,



By: Brenda O. Holmes
Attorney for Applicants
Reg. No. 40,339

KILPATRICK STOCKTON LLP
Suite 2800
1100 Peachtree Street
Atlanta, GA 30309-4530
404-815-6500
Our Docket: 52224/294509



Patents

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Eric Klinker, et al.)	Examiner: Unknown
)	
Serial No.: 10/735,589)	Art Unit: 2662
)	
Filed: December 12, 2003)	
)	
For: Topology Aware Route Control)	
)	

STATEMENT OF FACTS IN SUPPORT OF PETITION
UNDER 37 C.F.R. § 1.47(a) FILING WHEN INVENTOR IS UNAVAILABLE

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The following Statement of Facts is submitted in support of a petition under 37 CFR 1.47(a).

Multiple attempts to obtain a signed Declaration from Jeremy T. Johnson were made as shown by the attached documents.

Attachment A: June 4, 2004 electronic mail communication to Jeremy Johnson requesting his residential address and citizenship.

Attachment B: June 4, 2004 electronic mail communication from Jeremy Johnson providing his residential address and citizenship.

Attachment C: June 11, 2004 electronic mail communication to all inventors enclosing Declarations and Powers of Attorney and notification of the deadline to file a Response to the Notice to File Missing Parts. A copy of the patent application was enclosed with the correspondence, but is not attached hereto due to its size.

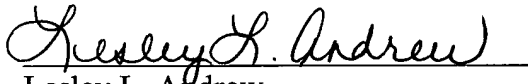
Attachment D: July 13, 2004 electronic mail communication to Jeremy Johnson enclosing an additional Declaration and Power of Attorney and a reminder of deadline to file a Response to the Notice to File Missing Parts.

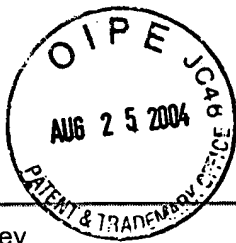
Attachment E: July 26, 2004 letter to Jeremy Johnson via UPS Next Day Air enclosing an additional Declaration and Power of Attorney and a reminder of the deadline to file the Response to the Notice to File Missing Parts. Copies of the UPS Shipment Receipt and UPS Tracking Details are also attached. A copy of the patent application was enclosed with the correspondence, but is not attached hereto due to its size.

Attachment F: August 23, 2004 electronic mail communication to Jeremy Johnson enclosing an additional Declaration and Power of Attorney and final reminder of deadline to file a Response to the Notice to File Missing Parts.

Other than the June 4, 2004 electronic mail communication, there has been no response from Mr. Johnson.

Date: 8/25/04


Lesley L. Andrew
Paralegal



Andrew, Lesley

From: Andrew, Lesley
Sent: Friday, June 04, 2004 12:07 PM
To: 'jjohnson@soe.sony.com'; 'brian@internap.com'; 'edc@amazon.com'
Cc: Jackie Hoffmeister (E-mail); Holmes, Brenda
Subject: 52224/294509 - U.S. Patent Application No. 10/735,589...

entitled "Topology Aware Route Control"

Dear Mr. Johnson, Mr. Grady and Mr. Crabbe:

We have been informed by Eric Klinker at Internap Network Services Corporation that all three of you need to be listed as inventors on the above-referenced patent application. Will you please provide us with your residential address and citizenship so that we may send you a Declaration for your signatures?

Thank you for your assistance and if you have any questions, please contact our office.

Lesley L. Andrew
Paralegal



Lesley L. Andrew
Paralegal
Kilpatrick Stockton LLP
Suite 2800
1100 Peachtree Street
Atlanta, GA 30309-4530
t 404 745 2491
f 404 541 3111

Confidentiality Notice:

This communication constitutes an electronic communication within the meaning of the Electronic Communications Privacy Act, 18 U.S.C. Section 2510, and its disclosure is strictly limited to the recipient intended by the sender of this message. This transmission, and any attachments, may contain confidential attorney-client privileged information and attorney work product. If you are not the intended recipient, any disclosure, copying, distribution or use of any of the information contained in or attached to this transmission is STRICTLY PROHIBITED. Please contact us immediately by return e-mail or at 404 815 6500, and destroy the original transmission and its attachments without reading or saving in any matter.

EXHIBIT A

8/24/04

Andrew, Lesley

From: Jeremy Johnson [jjohnson@soe.sony.com]
Sent: Friday, June 04, 2004 1:04 PM
To: Andrew, Lesley; brian@internap.com; edc@amazon.com
Cc: Jackie Hoffmeister (E-mail); Holmes, Brenda
Subject: Re: 52224/294509 - U.S. Patent Application No. 10/735,589...

Jeremy Johnson
4775 Seminole Dr.
#207
San Diego, CA 92115

US Citizen

On 6/4/04 9:06 AM, "Andrew, Lesley" <LAndrew@KilpatrickStockton.com> wrote:

entitled "Topology Aware Route Control"

Dear Mr. Johnson, Mr. Grady and Mr. Crabbe:

We have been informed by Eric Klinker at Internap Network Services Corporation that all three of you need to be listed as inventors on the above-referenced patent application. Will you please provide us with your residential address and citizenship so that we may send you a Declaration for your signatures?

Thank you for your assistance and if you have any questions, please contact our office.

Lesley L. Andrew
Paralegal
<http://www.kilpatrickstockton.com/>

Lesley L. Andrew
Paralegal
Kilpatrick Stockton LLP
Suite 2800
1100 Peachtree Street
Atlanta, GA 30309-4530
t 404 745 2491
f 404 541 3111

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EXHIBIT B

6/4/04

Andrew, Lesley

From: Andrew, Lesley
Sent: Friday, June 11, 2004 3:41 PM
To: 'klinker@internap.com'; 'jjohnson@soe.sony.com'; 'brian@internap.com'; 'edc@amazon.com'
Cc: Jackie Hoffmeister (E-mail); Holmes, Brenda
Subject: 52224/294509 - Declaration and Assignment



52224 294509
Declaration Assi...



52224 294509 Patent
Applicati...

Re: U.S. Patent Application No. 10/735,589 entitled "Topology

Aware
Route Control"

Dear Mr. Klinker, Mr. Johnson, Mr. Grady and Mr. Crabbe:

Attached are Declaration and Assignment documents for the above-referenced patent application. Please review the Declaration and Assignment and sign and date both documents where your name is listed. If possible, please have your signature notarized by a Notary Public on the Assignment. A copy of the patent application is attached for your convenience.

Please return the executed documents to our office no later than June 21, 2004 so that we may respond to the Notice to File Missing Parts by June 25, 2004. If you fax the documents, please also put the original in the First Class mail at your convenience.

Should you have any questions or comments, please do not hesitate to contact our office.

Lesley L. Andrew
Paralegal

Lesley L. Andrew
Paralegal
Kilpatrick Stockton LLP
Suite 2800
1100 Peachtree Street
Atlanta, GA 30309-4530
t 404 745 2491
f 404 541 3111

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EXHIBIT C

DECLARATION FOR PATENT APPLICATION☒ Original☐ Supplemental☐ Substitute☐ PCT

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below), or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a design patent is sought on the invention entitled:

TOPOLOGY AWARE ROUTE CONTROL

(Title of the Invention)

the specification of which (check one)

☐ is attached hereto☒ was filed on December 12, 2003 as U. S. Application Serial Number or PCTInternational Application Number 10/735,589

and was amended
(if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 (a) - (d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified, by checking the box below, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Applications			Priority Claimed		Copy Attached	
Application Number	Country	Foreign Filing Date (MM/DD/YYYY)	YES	NO	YES	NO

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below and claim the benefit under Title 35, United States Code, § 120 of any United States application(s), or § 365(c) of any PCT international application(s) designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application(s) in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

Inventors: Eric Klinker, Jeremy T. Johnson, Brian Douglas Grady and Edward Crabbe
For: **Topology Aware Route Control**
Filed: December 12, 2003
Attorney Docket No. 52224/294509
Declaration for Patent Application
Page 2

Parent Application Number	Filing Date	Status (Mark Appropriate Column Below)		
		Patented	Pending	Abandoned
60/433,285	12/13/2002			X

As a named inventor, I hereby revoke all prior powers and appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

CUSTOMER NO.
23370

FIRM NAME: **KILPATRICK STOCKTON LLP**, 1100 Peachtree Street, Suite 2800,
Atlanta, Georgia 30309-4530

Attorney and/or Agent	Registration No.
Anthony B. Askew	24,154
John M. Harrington	25,592
Robert E. Richards	29,105
John S. Pratt	29,476
James L. Ewing, IV	30,630
Stephen M. Schaetzel	31,418
James Dean Johnson	31,771
Charles W. Calkins	31,814
Larry A. Roberts	31,871
Jamie L. Greene	32,467
George T. Marcou	33,014
Dean W. Russell	33,452
David Krasnow	34,203
Bruce D. Gray	35,799
Mitchell G. Stockwell	39,389
Brenda Ozaki Holmes	40,339
Michael J. Turton	40,852
J. Steven Gardner	41,772
Thomas A. Corrado	42,439
John K. McDonald	42,860
Sima Singadia Kulkarni	43,732
Camilla Camp Williams	43,992
Christopher J. Chan	44,070

Attorney and/or Agent	Registration No.
John William Ball, Jr.	44,433
Dawn-Marie Bey	44,442
Tiep H. Nguyen	44,465
Michael J. Dimino	44,657
Kristin L. Johnson	44,807
J. Jason Link	44,874
Goran P. Stojkovich	45,841
Vaibhav P. Kadaba	45,865
J. Michael Boggs	46,563
Tywanda L. Harris	46,758
Cynthia B. Rothschild	47,040
John C. Alemanni	47,384
Geoffrey K. Gavin	47,591
Aleta A. Mills	47,794
Leroy M. Toliver	50,409
Todd W. Galinski	51,713
Elena S. Polovnikova	52,130
Samuel B. Rollins	52,180
Catherine E. Fienning	54,095
J. Clinton Wimbish	54,545
Bret T. Winterle	54,546
Michael A. Bertelson	54,713
Katrina M. Quicker	55,554

I acknowledge the above-listed attorneys and agents and their firm Kilpatrick Stockton LLP represent my employer (if I am an employee and this application has been or will be assigned to my employer) or the entity with which I have contracted (if I am an independent contractor and this application has been or will be assigned to such entity) and in such cases do not represent me individually. I further acknowledge I have not established, nor will I seek to establish, any personal attorney/client relationship with

Inventors: Eric Klinker, Jeremy T. Johnson, Brian Douglas Grady and Edward Crabbe
For: Topology Aware Route Control
Filed: December 12, 2003
Attorney Docket No. 52224/294509
Declaration for Patent Application
Page 3

Kilpatrick Stockton LLP in connection with this application and understand that, should I require legal representation, I will obtain such, at my expense, other than through Kilpatrick Stockton LLP.

Send Correspondence to: John S. Pratt, Esq.
Kilpatrick Stockton LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309-4530
Direct telephone calls to: Brenda O. Holmes, Esq. (404) 685-6799

CUSTOMER NO.
23370

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor Eric Klinker

Inventor's signature _____ Date _____

Residence 201 4th Street, Oakland California 94607

Citizenship US

Post Office Address 201 4th Street, Oakland California 94607

Full name of second inventor Jeremy T. Johnson

Inventor's signature _____ Date _____

Residence 4775 Seminole Drive, #207, San Diego, California 92115

Citizenship US

Post Office Address 4775 Seminole Drive, #207, San Diego, California 92115

Full name of third inventor Brian Douglas Grady

Inventor's signature _____ Date _____

Residence 792 Bond Way, Mountain View, California 94040

Citizenship US

Post Office Address 792 Bond Way, Mountain View, California 94040

Full name of third inventor Edward Crabbe

Inventor's signature _____ Date _____

Residence 349 16th Avenue East, #302, Seattle, Washington 98112

Citizenship US

Post Office Address 349 16th Avenue East, #302, Seattle, Washington 98112

Andrew, Lesley

From: Andrew, Lesley
Sent: Tuesday, July 13, 2004 12:55 PM
To: 'Jeremy Johnson'
Cc: Jackie Hoffmeister (E-mail); Holmes, Brenda
Subject: RE: 52224/294509 - U.S. Patent Application No. 10/735,589...

Importance: High

52224/294509 -
Declaration and...

Dear Mr. Johnson,

Further to our correspondence dated June 11, 2004 (copy attached), please note that the deadline to file the Declaration in response to the Notice to File Missing Parts with a one-month extension of time is July 25, 2004. Please sign and date the Declaration and Assignment documents and return them to our office via facsimile (404.541.3111) no later than July 23, 2004.

Due to the large size of the pdf copy of the patent application, it has been removed from the attached correspondence. If you need an additional copy, please let us know and we will e-mail it to you.

Should you have any questions or comments, please do not hesitate to contact our office.

Thank you for your assistance.

Lesley L. Andrew
Paralegal

-----Original Message-----

From: Jeremy Johnson [mailto:jjohnson@soe.sony.com]
Sent: Friday, June 04, 2004 1:04 PM
To: Andrew, Lesley; brian@internap.com; edc@amazon.com
Cc: Jackie Hoffmeister (E-mail); Holmes, Brenda
Subject: Re: 52224/294509 - U.S. Patent Application No. 10/735,589...

Jeremy Johnson
4775 Seminole Dr.
#207
San Diego, CA 92115

US Citizen

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entitled "Topology Aware Route Control"

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Thank you for your assistance and if you have any questions, please

contact our office.

Lesley L. Andrew
Paralegal
<<http://www.kilpatrickstockton.com/>>

Lesley L. Andrew
Paralegal
Kilpatrick Stockton LLP
Suite 2800
1100 Peachtree Street
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t 404 745 2491
f 404 541 3111

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DECLARATION FOR PATENT APPLICATION☒ Original☐ Supplemental☐ Substitute☐ PCT

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

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TOPOLOGY AWARE ROUTE CONTROL

(Title of the Invention)

the specification of which (check one)

☐ is attached hereto☒ was filed on December 12, 2003 as U. S. Application Serial Number or PCTInternational Application Number 10/735,589and was amended
(if applicable) _____

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 (a) - (d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified, by checking the box below, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Applications			Priority Claimed		Copy Attached	
Application Number	Country	Foreign Filing Date (MM/DD/YYYY)	YES	NO	YES	NO

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Inventors: Eric Klinker, Jeremy T. Johnson, Brian Douglas Grady and Edward Crabbe
 For: Topology Aware Route Control
 Filed: December 12, 2003
 Attorney Docket No. 52224/294509
 Declaration for Patent Application
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Parent Application Number	Filing Date	Status (Mark Appropriate Column Below)		
		Patented	Pending	Abandoned
60/433,285	12/13/2002			X

As a named inventor, I hereby revoke all prior powers and appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

CUSTOMER NO.
23370

FIRM NAME: KILPATRICK STOCKTON LLP, 1100 Peachtree Street, Suite 2800,
 Atlanta, Georgia 30309-4530

Attorney and/or Agent	Registration No.
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Robert E. Richards	29,105
John S. Pratt	29,476
James L. Ewing, IV	30,630
Stephen M. Schaetzel	31,418
James Dean Johnson	31,771
Charles W. Calkins	31,814
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Jamie L. Greene	32,467
George T. Marcou	33,014
Dean W. Russell	33,452
David Krasnow	34,203
Bruce D. Gray	35,799
Mitchell G. Stockwell	39,389
Brenda Ozaki Holmes	40,339
Michael J. Turton	40,852
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Thomas A. Corrado	42,439
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Sima Singadia Kulkarni	43,732
Camilla Camp Williams	43,992
Christopher J. Chan	44,070

Attorney and/or Agent	Registration No.
John William Ball, Jr.	44,433
Dawn-Marie Bey	44,442
Tiep H. Nguyen	44,465
Michael J. Dimino	44,657
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Aleta A. Mills	47,794
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Todd W. Galinski	51,713
Elena S. Polovnikova	52,130
Samuel B. Rollins	52,180
Catherine E. Fienning	54,095
J. Clinton Wimbish	54,545
Bret T. Winterle	54,546
Michael A. Bertelson	54,713
Katrina M. Quicker	55,554

I acknowledge the above-listed attorneys and agents and their firm Kilpatrick Stockton LLP represent my employer (if I am an employee and this application has been or will be assigned to my employer) or the entity with which I have contracted (if I am an independent contractor and this application has been or will be assigned to such entity) and in such cases do not represent me individually. I further acknowledge I have not established, nor will I seek to establish, any personal attorney/client relationship with

Inventors: Eric Klinker, Jeremy T. Johnson, Brian Douglas Grady and Edward Crabbe
For: Topology Aware Route Control
Filed: December 12, 2003
Attorney Docket No. 52224/294509
Declaration for Patent Application
Page 3

Kilpatrick Stockton LLP in connection with this application and understand that, should I require legal representation, I will obtain such, at my expense, other than through Kilpatrick Stockton LLP.

Send Correspondence to: John S. Pratt, Esq.
Kilpatrick Stockton LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309-4530
Direct telephone calls to: Brenda O. Holmes, Esq. (404) 685-6799

CUSTOMER NO.
23370

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor Eric Klinker

Inventor's signature _____ Date _____

Residence 201 4th Street, Oakland California 94607

Citizenship US

Post Office Address 201 4th Street, Oakland California 94607

Full name of second inventor Jeremy T. Johnson

Inventor's signature _____ Date _____

Residence 4775 Seminole Drive, #207, San Diego, California 92115

Citizenship US

Post Office Address 4775 Seminole Drive, #207, San Diego, California 92115

Full name of third inventor Brian Douglas Grady

Inventor's signature _____ Date _____

Residence 792 Bond Way, Mountain View, California 94040

Citizenship US

Post Office Address 792 Bond Way, Mountain View, California 94040

Full name of third inventor Edward Crabbe

Inventor's signature _____ Date _____

Residence 349 16th Avenue East, #302, Seattle, Washington 98112

Citizenship US

Post Office Address 349 16th Avenue East, #302, Seattle, Washington 98112

July 26, 2004

direct dial 404 685 6799
direct fax 404 541 3244
BHolmes@KilpatrickStockton.com

VIA UPS NEXT DAY AIR

Jeremy Johnson
4775 Seminole Drive
#207
San Diego, CA 92115

Re: U.S. Patent Application Serial No. 10/735,589
Topology Aware Route Control
Filed: December 12, 2003
Inventors: Eric Klinker, Jeremy T. Johnson, Brian Douglas Grady and Edward
Crabbe
Our Ref: ~~52224~~/294509

Dear Mr. Johnson:

Further to our electronic correspondence dated June 11, 2004 and July 13, 2004, enclosed for your review are copies of the above-referenced patent application including the specification, claims, abstract and figures 1-31.

Also enclosed are Declaration and Assignment documents. Please sign and date both documents and return them to our office no later than **August 18, 2004** in the enclosed self-addressed stamped envelope. If possible, please have your signature on the Assignment notarized by a Notary Public.

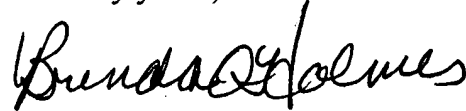
The deadline to file the Declaration in response to the Notice to File Missing Parts is August 25, 2004. Please note that we have already incurred a two-month extension of time for filing the response. In order to avoid incurring additional fees, please return the executed Assignment and Declaration documents to our office no later than **August 18, 2004**.

EXHIBIT E

Jeremy T. Johnson
July 26, 2004
Page 2

Should you have any questions or comments, please do not hesitate to contact our office.

Cordially yours,

A handwritten signature in black ink, appearing to read "Brenda O. Holmes". The signature is fluid and cursive, with the first name "Brenda" being more prominent and the last name "Holmes" written in a smaller, more compact script.

Brenda O. Holmes

BOH.LLA
Enclosures

cc: Jackie Hoffmeister, Esq. (w/o encls.)
Lesley L. Andrew, Paralegal (w/o encls.)

DECLARATION FOR PATENT APPLICATION

☒ Original

☐ Supplemental

☐ Substitute

☐ PCT

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below), or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a design patent is sought on the invention entitled:

TOPOLOGY AWARE ROUTE CONTROL

(Title of the Invention)

the specification of which (check one)

☐ is attached hereto

☒ was filed on December 12, 2003 as U. S. Application Serial Number or PCT

International Application Number 10/735,589

and was amended
(if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 (a) - (d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified, by checking the box below, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Applications			Priority Claimed		Copy Attached	
Application Number	Country	Foreign Filing Date (MM/DD/YYYY)	YES	NO	YES	NO

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below and claim the benefit under Title 35, United States Code, § 120 of any United States application(s), or § 365(c) of any PCT international application(s) designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application(s) in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

Inventors: Eric Klinker, Jeremy T. Johnson, Brian Douglas Grady and Edward Crabbe
For: Topology Aware Route Control
Filed: December 12, 2003
Attorney Docket No. 52224/294509
Declaration for Patent Application
Page 2

Parent Application Number	Filing Date	Status (Mark Appropriate Column Below)		
		Patented	Pending	Abandoned
60/433,285	12/13/2002			X

As a named inventor, I hereby revoke all prior powers and appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

CUSTOMER NO.
23370

FIRM NAME: KILPATRICK STOCKTON LLP, 1100 Peachtree Street, Suite 2800,
Atlanta, Georgia 30309-4530

Attorney and/or Agent	Registration No.
Anthony B. Askew	24,154
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Robert E. Richards	29,105
John S. Pratt	29,476
James L. Ewing, IV	30,630
Stephen M. Schaetzel	31,418
James Dean Johnson	31,771
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Dean W. Russell	33,452
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Camilla Camp Williams	43,992
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Catherine E. Fienning	54,095
J. Clinton Wimbish	54,545
Bret T. Winterle	54,546
Michael A. Bertelson	54,713
Katrina M. Quicker	55,554

I acknowledge the above-listed attorneys and agents and their firm Kilpatrick Stockton LLP represent my employer (if I am an employee and this application has been or will be assigned to my employer) or the entity with which I have contracted (if I am an independent contractor and this application has been or will be assigned to such entity) and in such cases do not represent me individually. I further acknowledge I have not established, nor will I seek to establish, any personal attorney/client relationship with

Inventors: Eric Klinker, Jeremy T. Johnson, Brian Douglas Grady and Edward Crabbe
For: Topology Aware Route Control
Filed: December 12, 2003
Attorney Docket No. 52224/294509
Declaration for Patent Application
Page 3

Kilpatrick Stockton LLP in connection with this application and understand that, should I require legal representation, I will obtain such, at my expense, other than through Kilpatrick Stockton LLP.

Send Correspondence to: John S. Pratt, Esq.
Kilpatrick Stockton LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309-4530
Direct telephone calls to: Brenda O. Holmes, Esq. (404) 685-6799

CUSTOMER NO.
23370

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor Eric Klinker

Inventor's signature _____ Date _____

Residence 201 4th Street, Oakland California 94607

Citizenship US

Post Office Address 201 4th Street, Oakland California 94607

Full name of second inventor Jeremy T. Johnson

Inventor's signature _____ Date _____

Residence 4775 Seminole Drive, #207, San Diego, California 92115

Citizenship US

Post Office Address 4775 Seminole Drive, #207, San Diego, California 92115

Full name of third inventor Brian Douglas Grady

Inventor's signature _____ Date _____

Residence 792 Bond Way, Mountain View, California 94040

Citizenship US

Post Office Address 792 Bond Way, Mountain View, California 94040

Full name of third inventor Edward Crabbe

Inventor's signature _____ Date _____

Residence 349 16th Avenue East, #302, Seattle, Washington 98112

Citizenship US

Post Office Address 349 16th Avenue East, #302, Seattle, Washington 98112



Shipment Receipt

(Keep this for your records.)

Transaction Date 26 Jul 2004

Address Information

Ship To:

Jeremy Johnson
4775 Seminole Drive
#207
SAN DIEGO CA 92115-4246

Shipper:

Kilpatrick Stockton LLP
Matt Collins
404 541 6812
1100 Peachtree Street STE 2800
Atlanta GA 30309

Shipment Information

Service:

UPS Next Day Air

Guaranteed By:

10:30 A.M., Tues. 27 Jul. 2004

Package Information

Package 1 of 1

Tracking Number: 1Z3292740196119153
Package Type: UPS Letter
Actual Weight: Letter
Billable Weight: Letter
Only Valid 6 Digit Matter # Accepted: 294509

Billing Information

Payment Method:

Bill Sender: 329274

All Shipping Charges in USD

* For delivery and guarantee information, see the UPS Service Guide. To speak to a customer service representative, call 1-800-PICK-UPS for domestic services and 1-800-782-7892 for international services.


Responsibility for Loss or Damage

Unless a greater value is recorded in the declared value field as appropriate for the UPS shipping system used, the shipper agrees that the released value of each package covered by this receipt is no greater than \$100, which is a reasonable value under the circumstances surrounding the transportation. UPS does not accept for transportation and shipper's requesting service through the Internet are prohibited from shipping packages with a value of more than \$50,000. The maximum liability per package assumed by UPS shall not exceed \$100, regardless of the purchase of insurance for protection in excess of \$100. The maximum liability per package assumed by the applicable insurance company shall not exceed \$50,000 (less \$100). Claims not made within nine months after delivery of the package (six months for international shipments), or in the case of failure to make delivery, nine months after a reasonable time for delivery has elapsed (six months for international shipments), shall be deemed waived. The entry of a C.O.D. amount is not a declaration of value for insurance purposes. All checks or other negotiable instruments tendered in payment of C.O.D.'s will be accepted by UPS at shipper's risk. UPS shall not be liable for any special, incidental, or consequential damages.

All shipments are subject to the terms and conditions contained in the UPS Tariff and the UPS Terms and Conditions of Service, which can be found at www.ups.com.



Shipping[→ Begin Your Shipment](#)[→ Help](#)Welcome, Matt Collins | [Logout](#)[My Settings](#)**Track by Tracking Number****View Details**

To view Proof of Delivery, please select the link.

Status: Delivered [Proof of Delivery](#) 


Delivered on: Jul 27, 2004 9:41 A.M.

Location: MC MAN


Delivered to: 4775 SEMINOLE DR 
SAN DIEGO, CA, US 92115 

Shipped or Billed on: Jul 26, 2004

Tracking Number: 1Z 329 274 01 9611 915 3

Reference Number(s):  294509, 294509

Service Type: NEXT DAY AIR

 Information and services provided to My UPS users.

Package Progress:

Date/ Time	Location	Activity
Jul 27, 2004		
9:41 A.M.	CHULA VISTA, CA, US	DELIVERY
9:35 A.M.	CHULA VISTA, CA, US	THE RECEIVER WAS UNAVAILABLE TO SIGN ON THE 1ST DELIVERY ATTEMPT. A 2ND DELIVERY ATTEMPT WILL BE MADE
6:19 A.M.	CHULA VISTA, CA, US	OUT FOR DELIVERY
5:54 A.M.	CHULA VISTA, CA, US	ARRIVAL SCAN
5:34 A.M.		DEPARTURE SCAN
4:49 A.M.		ARRIVAL SCAN
3:47 A.M.	LOUISVILLE, KY, US	DEPARTURE SCAN
12:27 A.M.	LOUISVILLE, KY, US	ARRIVAL SCAN
Jul 26, 2004		
11:08 P.M.	HAPEVILLE, GA, US	DEPARTURE SCAN
10:06 P.M.	HAPEVILLE, GA, US	ARRIVAL SCAN
9:50 P.M.	ATLANTA, GA, US	DEPARTURE SCAN
8:53 P.M.	ATLANTA, GA, US	ORIGIN SCAN
6:57 P.M.	ATLANTA, GA, US	PICKUP SCAN
3:00 P.M.	US	BILLING INFORMATION RECEIVED

Tracking results provided by UPS: Aug 23, 2004 10:44 A.M. Eastern Time (USA)

NOTICE: UPS authorizes you to use UPS tracking systems solely to track shipments tendered by or for you to UPS for delivery and for no other purpose. Any other use of UPS tracking systems and information is strictly prohibited.

[← Back to Tracking Summary](#)[↑ Back to Top](#)

**DELIVERY NOTIFICATION**

Dear Customer,

This is in response to your request for delivery information concerning the shipment listed below.

Tracking Number: 1Z 329 274 01 9611 915 3
Reference Number(s): 294509, 294509
Service Type: NEXT DAY AIR
Shipped or Billed on: Jul 26, 2004
Delivered on: Jul 27, 2004 9:41 A.M.
Delivered to: 4775 SEMINOLE DR
SAN DIEGO, CA, US 92115
Location: MC MAN

Thank you for giving us this opportunity to serve you.

Sincerely,
United Parcel Service

Tracking results provided by UPS: Aug 23, 2004 10:44 A.M.
Eastern Time (USA)

Andrew, Lesley

From: Andrew, Lesley
Sent: Monday, August 23, 2004 10:01 AM
To: 'jjohnson@soe.sony.com'
Cc: Holmes, Brenda
Subject: U.S. Patent Application No. 10/735,589...

Importance: High



52224 294509

Declaration Assl...

entitled "Topology Aware Route Control"; Our File: 52224/294509

Dear Mr. Johnson,

Further to our email correspondence dated June 11, 2004 and July 13, 2004 and our correspondence via UPS Next Day Air dated July 26, 2004, please note that the deadline to file the Declaration in response to the Notice to File Missing Parts with a 3-month extension of time is Wednesday, August 25, 2004. Attached are the Declaration and Assignment documents for your signature. Please sign and date each document and return them to our office via facsimile (404-541-3111) by tomorrow and the originals by regular mail. Please note that the Assignment does not need to be notarized.

Should you have any questions or comments, please do not hesitate to contact our office.

Thank you for your assistance.

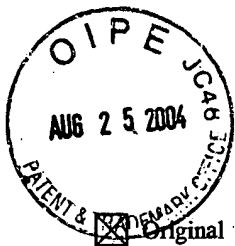
Lesley L. Andrew
Paralegal

Lesley L. Andrew
Paralegal
Kilpatrick Stockton LLP
Suite 2800
1100 Peachtree Street
Atlanta, GA 30309-4530
t 404 745 2491
f 404 541 3111

Confidentiality Notice:

This communication constitutes an electronic communication within the meaning of the Electronic Communications Privacy Act, 18 U.S.C. Section 2510, and its disclosure is strictly limited to the recipient intended by the sender of this message. This transmission, and any attachments, may contain confidential attorney-client privileged information and attorney work product. If you are not the intended recipient, any disclosure, copying, distribution or use of any of the information contained in or attached to this transmission is STRICTLY PROHIBITED. Please contact us immediately by return e-mail or at 404 815 6500, and destroy the original transmission and its attachments without reading or saving in any matter.

EXHIBIT F

Attorney Docket No. 52224/294509**DECLARATION FOR PATENT APPLICATION**☐ Supplemental☐ Substitute☐ PCT

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below), or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a design patent is sought on the invention entitled:

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(Title of the Invention)

the specification of which (check one)

☐ is attached hereto☒ was filed on December 12, 2003 as U. S. Application Serial Number or PCTInternational Application Number 10/735,589and was amended
(if applicable)

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Prior Foreign Applications			Priority Claimed		Copy Attached	
Application Number	Country	Foreign Filing Date (MM/DD/YYYY)	YES	NO	YES	NO

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Parent Application Number	Filing Date	Status (Mark Appropriate Column Below)		
		Patented	Pending	Abandoned
60/433,285	12/13/2002			X

As a named inventor, I hereby revoke all prior powers and appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

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FIRM NAME: KILPATRICK STOCKTON LLP, 1100 Peachtree Street, Suite 2800,
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Kilpatrick Stockton LLP in connection with this application and understand that, should I require legal representation, I will obtain such, at my expense, other than through Kilpatrick Stockton LLP.

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Kilpatrick Stockton LLP
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Direct telephone calls to: Brenda O. Holmes, Esq. (404) 685-6799

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Inventor's signature _____ Date _____
Residence 201 4th Street, Oakland California 94607
Citizenship US
Post Office Address 201 4th Street, Oakland California 94607

Full name of second inventor Jeremy T. Johnson
Inventor's signature _____ Date _____
Residence 4775 Seminole Drive, #207, San Diego, California 92115
Citizenship US
Post Office Address 4775 Seminole Drive, #207, San Diego, California 92115

Full name of third inventor Brian Douglas Grady
Inventor's signature _____ Date _____
Residence 792 Bond Way, Mountain View, California 94040
Citizenship US
Post Office Address 792 Bond Way, Mountain View, California 94040

Full name of third inventor Edward Crabbe
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